

MICHAEL JIMENEZ, #873142	§	
VS.	§	CIVIL ACTION NO. 9:12cv35
CODY GINSEL, ET AL.	§	

Plaintiff Michael Jimenez, a prisoner confined at the Gib Lewis Unit of the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was transferred to the undersigned with the consent of the parties pursuant to 28 U.S.C. § 636(c).

When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party's default.

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75 F.3d 207, 212 (5th Cir. 1996). In fact, “[d]efault judgments are a drastic remedy, not favored by the Federal Rules and resorted to by courts only in extreme situations.” *Sun Bank of Ocala v. Pelican Homestead and Savings Ass’n.*, 874 F.2d 274, 276 (5th Cir. 1989). In cases where default has been entered, the Court may set aside the entry of default on a showing of good cause. Fed. R. Civ. P. 55(c). With good cause being mistakes, inadvertence, excusable neglect, newly discovered evidence or fraud. *See Whitman v. United States Lines, Inc.*, 88 F.R.D. 528, 530 (E.D. Tex. 1980).

In the present case, the Court issued an Order to Answer on April 10, 2012. The Court received an acknowledgment indicating that the Office of the Texas Attorney General received the order on April 19, 2012. An answer was due thirty days later. The answer was timely filed on May 16, 2012. As such, there is no factual basis to the present motion. It is accordingly

**ORDERED** that the motion for entry of default (docket entry #22) is **DENIED**.

So **ORDERED** and **SIGNED** this **23** day of **May, 2012**.

  
JUDITH K. GUTHRIE  
UNITED STATES MAGISTRATE JUDGE